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Letter dated 3 November 2004 from the Permanent Representative of Paraguay to the United Nations addressed to the Chairman of the Committee

I have the honour to write to you in order to transmit herewith the report of the Republic of Paraguay in accordance with the provisions of Security Council resolution 1540 (2004) (see annex).

(*Signed*) Eladio Loizaga
Ambassador
Permanent Representative

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Annex to the letter dated 3 November 2004 from the Permanent Representative of Paraguay to the United Nations addressed to the Chairman of the Committee

[Original: Spanish]

Report of the Republic of Paraguay on Security Council resolution 1540 (2004)

Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Reply

The Paraguayan State, which faithfully honours its commitments and obligations with regard to international security, does not provide and has not provided any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons.

Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Reply

The Government of Paraguay has always engaged in international cooperation to promote global disarmament, as evidenced by its accession to a number of basic international instruments and agreements in that field. Apart from having absolutely no weapons of mass destruction and lacking the capacity and infrastructure to manufacture them, it is fully cognizant of the serious threat that would be created should such materials fall into the hands of terrorists.

Accordingly, it has thus far ratified the following international treaties and incorporated them into its national legal order:

Nuclear weapons and materials

- Statute of the International Atomic Energy Agency (IAEA) — Act No. 467 of 12 September 1957
- Amendment to Article VI of the Statute of the International Atomic Energy Agency (IAEA) — Act No. 376 of 13 December 1972

- Amendment to Article VI, subparagraph A-2, of the Statute of the International Atomic Energy Agency (IAEA) — Act No. 810 of 18 July 1962
- Treaty on the Non-Proliferation of Nuclear Weapons — Act No. 157 of 9 December 1969
- Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean. Additional Protocols I and II of the Treaty (Treaty of Tlatelolco) — Act No. 62 of 18 December 1968
- First Amendment to the Treaty of Tlatelolco — Act No. 902 of 26 June 1996
- Second Amendment to the Treaty of Tlatelolco — Act No. 902 of 26 June 1996
- Amendments to the Treaty of Tlatelolco — Act No. 902 of 26 June 1996
- Agreement between the Republic of Paraguay and the [International Atomic Energy] Agency for the Application of Safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean and the Treaty on the Non-Proliferation of Nuclear Weapons and its Protocols — Act No. 715 of 7 November 1978
- Convention on Privileges and Immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) — Act No. 1073 of 7 July 1997
- Comprehensive Nuclear-Test-Ban Treaty — Act No. 1749 of 23 August 2001

Biological weapons

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction — Act No. 558 of 17 December 1975

Chemical weapons

- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction — Act No. 406 of 21 October 1994

Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Reply

Paraguay has no factories that manufacture weapons of mass destruction. The General Customs Directorate is the authority in charge of ensuring that any related materials entering the country are in compliance with the relevant control standards.

The 1992 Paraguayan Constitution currently in force, in article 8, provides that: "... The manufacture, assembly, import, sale, possession or use of nuclear, chemical or biological weapons is prohibited ..."

(b) Develop and maintain appropriate effective physical protection measures;

Reply

With regard to this provision, by Act No. 1086 of 21 November 1984, the Convention on the Physical Protection of Nuclear Materials was ratified and adopted.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

Reply

With regard to nuclear materials, Paraguay recently joined the IAEA programme on illicit traffic in radioactive materials and sources. Participation in the programme implied a country's willingness to provide information to the IAEA database on illicit trafficking in radioactive materials in its territory, as well as any other pertinent information that may be requested. Radioactive materials can be classified as follows:

- Nuclear material, including uranium, plutonium and thorium;
- Other radioactive materials, including sealed sources of radioactive material;
- Other material, including radioactively contaminated material;
- In connection with the preparatory phase of this programme, Paraguay hosted a regional seminar in October 2003 entitled Handling, Detection and Control of Radioactive Sources in Border Areas with a view to training front-line officials — mainly customs agents — to familiarize themselves with the instruments of detection, some of which were donated by IAEA.

Recently, another seminar was held on this topic in Paraguay. Conducted by the national authority for the application of IAEA safeguards, namely, the National Atomic Energy Commission (CNEA), it was designed to train all national officials who may be stationed at inspection posts. Full implementation of the IAEA programme is contingent on IAEA approval of the project entitled "Establishment of a Regional System to Detect and Combat Illicit Trafficking in Nuclear and Radioactive Materials", elaborated and presented by CNEA.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and

enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

Reply

Given the geographic situation of Paraguay, which has long stretches of penetrable borders in common with neighbouring countries, border control and the proper implementation of current legislation in order to guarantee the use of nuclear, chemical and biological material for peaceful purposes are extremely difficult.

Additional regulatory legislation in force includes:

- **Act No. 406 of 21 October 1994, adopting the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted in Paris, France, on 13 January 1993**
- **Decree No. 9892 of 3 August 2000 establishing the National Authority for the Prohibition of Chemical Weapons**
- **Decree No. 21919 of 11 August 2003 establishing the Chemical Safety Commission.**

Furthermore, as monitoring the movement of goods into and out of the country is a function of the customs authority, the General Customs Directorate under the Ministry of Finance is responsible for setting up specific mechanisms to successfully combat illicit trafficking. It has inspection areas at the borders, where border control personnel from various organs monitor activities, using administrative and operational procedures that are similar and compatible.

Use of the SOFIA online system simplifies and facilitates procedures for inspecting goods by rapidly and accurately applying the customs legislation in force as well as the regulations governing the import of goods subject to inspection, including ionizing energy and radioactive sources, the transit of firearms, gunpowder, explosives, ammunition and any other related materials.

With regard to nuclear material, the National Atomic Energy Commission (CNEA) provides assistance by issuing certificates to authorize the transport (import/export) of radioactive materials in accordance with international standards set by the International Atomic Energy Agency.

The Chemical Safety Commission, established in 2003 under the Ministry of Public Health and Social Well-being, is in charge of authorizing the sale of chemical products on the basis of the World Trade Organization tariff classification system (paras. 18, 19 and 31).

Additionally, various efforts are being pursued with a view to improving the administrative effectiveness and management capacity of the General Customs Directorate by centralizing pertinent data in a main server. The availability of statistics on international trade, and of information on combating illicit trafficking, has enabled the Paraguayan customs service to build up intelligence in the area of fraud prevention and control.

It is important to be discerning; a clear distinction must be drawn between immediate, physical and documentary controls and subsequent controls, pinpointing those operations that appear to be in violation of established norms.

Another procedure known as "Red Channel" is applied to certain import products considered to be sensitive.

A form (*"sufijo de valor"*) designed to optimize the functioning of the Integrated Control System must also be completed; the additional information obtained through this procedure should result in a more precise description of the goods to be declared.

In this connection, the structural and institutional difficulties hampering full implementation of domestic and international legal norms are summarized below:

- Lack of personnel trained in customs and border control;
- Lack of implementing legislation;
- Lack of knowledge of legal norms;
- Lack of early warning systems;
- Lack of local laboratories to analyse samples;
- Reliability of documentation submitted by importers (technical contraband);
- Lack of technical and financial resources.

Currently, the General Customs Directorate is in the process of elaborating a databank on hazardous goods warning systems for the Common Market of the Southern Cone (MERCOSUR).

In view of the geographical situation of Paraguay, which shares large stretches of penetrable borders with neighbouring countries, the country faces significant border control challenges, and considerable economic and financial resources are needed to deal with them. The difficulty in obtaining these resources makes it harder to acquire the necessary means and materials to ensure full control.

Despite budgetary, logistical and salary constraints at the institutional level, however, the Paraguayan Customs Office is committed to becoming a more efficient and modern institution, on the assumption that the new Customs Code will endow it with greater autonomy and its own resources to help it achieve the major objectives assigned to it.

Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Reply

With a view to implementing this resolution, Paraguay will make the necessary efforts to develop the relevant national control lists.

Paragraph 7

Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific

requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Reply

Unfortunately, the Government of Paraguay does not have the financial and material wherewithal to provide assistance to other countries. The resources it has are barely sufficient to meet its own national commitments.

Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Reply

With a view to maintaining its cooperation at the global level, Paraguay is in the process of ratifying the following instruments:

- Additional Protocol to the Agreement between the Republic of Paraguay and the Agency for the Application of Safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Treaty on the Non-Proliferation of Nuclear Weapons and its Protocol — Act No. 2399 of 27 June 2004 (Instrument must be deposited for ratification.)

- Agreement between Paraguay and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization on activities relating to International Monitoring System facilities under the Comprehensive Nuclear-Test-Ban Treaty, including activities subsequent to ratification — signed on 4 April 2003

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Reply

The National Constitution of Paraguay, in its article 8, establishes "the prohibition of the manufacture, assembly, import, sale, possession or use of nuclear, chemical or biological weapons as well as of the entry of toxic waste into the country.

Furthermore, as mentioned above, Paraguay has incorporated the provisions of the main multilateral disarmament treaties into its legal order and they bolster its domestic legislation. In this connection, the following domestic norms should be mentioned:

Act No. 1177/97 "Penal Code" — Chapter II: "Punishable Acts against the Security of Persons in Collective Risk Situations", which, in its article 209, makes express reference to the unauthorized sale and use of chemical substances.

Act No. 1773/85 "Customs Code" — Article 10 "Prohibited Traffic" and article 22 on "Procedure applicable to goods obtained through illicit trafficking". It should be noted that, in January 2005, a new Customs Code will enter into force and will incorporate the following provisions: Article 244, on "Goods obtained through prohibited trafficking", article 245 on the "Effective term of restrictions" and article 248 on "Regulatory norms on prohibitions and restrictions".

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Reply

Since 1996, Paraguay has been carrying out the following vital technical cooperation projects with IAEA, including the National Regulatory Control and Occupational Radiation Protection Programme and the Development of Technical Capacities for a Sustainable Infrastructure in Radiological Safety and Radioactive Waste Safety Programme, with a view to improving national infrastructure for radiation protection.

The effectiveness and efficiency of radiation protection infrastructure in Paraguay was also evaluated by an IAEA Peer Review Mission as part of the National Regulatory Control and Programmes Occupational Radiation Protection Programme. The experts who carried out the evaluation congratulated Paraguay on its successful improvement of national radiation protection infrastructure.

This is also an integral part of the Comprehensive Nuclear-Test-Ban Treaty whose objective is the prohibition of nuclear testing and other explosions all over the world. Bearing in mind that the Treaty has not yet entered into force, the Preparatory Commission for the Comprehensive Test-Ban Treaty Organization was established. It is tasked with the implementation of a universal monitoring system, provided for in the Treaty (International Monitoring System), which is to become operational when the Treaty enters into force.

This global network will consist of 321 monitoring stations and will be set up and launched by the States parties hosting International Monitoring System facilities. It will cooperate with the provisional Technical Secretariat to establish, start up, improve, finance and maintain the facilities. The data from the stations will be instantaneously transmitted to the International Data Centre established in Vienna, where they will be analysed and evaluated. Paraguay will participate in the International Monitoring System by establishing two monitoring stations in its territory — one seismic and the other infrasonic.

Lastly, and very importantly, in response to repeated expressions of concern by IAEA at the quasi-duplication and overlapping of the legal norms contained in the National Atomic Energy Commission's organizational charter and the Health Code, and the resultant need for Paraguay to establish a single national regulatory authority over radioactive, radiological and ionizing elements, by Decree of the President of the Republic of 20 September 2004, an inter-agency working group was set up to formulate proposals for the establishment of such a single Authority.

To this end, the Decree sets a deadline of 20 November for submitting specific proposals to the Paraguayan executive branch and the National Congress regarding the amendment or derogation of existing legal norms in this area and, accordingly, the establishment of a single national regulatory authority over radioactive, radiological and ionizing elements, independent of users, suppliers, technical services and proponents of nuclear applications.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Reply

The Paraguayan Civil Service has been conducting training workshops to familiarize civil servants who will be responsible for exercising these functions.

Paragraph 9

Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

Reply

Paraguay has participated in regional cooperation within the framework of the Organization of American States. In this connection, the first inhabited weapons-free zone on the planet was established in Latin America and the Caribbean under the Treaty of Tlatelolco. This Treaty and OPANAL are among the most important contributions our region has made to international and regional peace and security, especially its pioneering efforts in the field of disarmament and nuclear non-proliferation.

Additional Protocols I and II to the Treaty, to which Paraguay is a fully fledged party, guarantee, respectively, the denuclearized status of the Latin American territories which are, de jure or de facto, under the control of extracontinental powers (United States of America, France, the Netherlands, the United Kingdom), and recognition by the nuclear powers (United States of America, France, the Russian Federation, the United Kingdom and China) of the denuclearized status of Latin America and the Caribbean.

Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Reply

MERCOSUR is the appropriate forum for dealing with these issues at the subregional level. In June 2000, its members, aware of the importance of combating all forms of criminal action and of the need to continue the proposal, incorporation into domestic legislation and implementation of new operative measures to combat illicit trafficking in nuclear/radioactive materials, and desiring to contribute to the sustainable development of the region and to determine appropriate monitoring

systems for and responses to radiological risk situations, in particular in the border areas, approved accession to the Addendum to the General Plan for Mutual Cooperation and Coordination for Regional Security with regard to Illicit Trafficking in Nuclear/Radioactive Material.

The aim is to establish a mechanism that would provide an "early warning" to MERCOSUR members and associate members of incidents involving both so-called "orphan sources" and nuclear material, especially those deriving from acts of illicit trafficking, as well as a database of such incidents, and to elaborate common procedures for guaranteeing proper coordination among the intervening authorities of each member and associate member.

MERCOSUR is also contemplating the formation of an efficient network among its members for the exchange of information, and to coordinating the detection of and responses to the presence of orphan sources and/or radioactive materials, as well as human resource training in the field.

The Paraguayan Government intends to give priority to the ad hoc working group on training established under the above-mentioned Plan of Work when it assumes the Chairmanship of the MERCOSUR regional forum in January 2005.